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ABSTRACT

This document provides information on the procedures for the investigation and resolution of special education complaints for schools or agencies under supervision of the Bureau of Indian Affairs, Office of Indian Education Programs (OIEP). Regulations are explained for the following areas: (1) public notification of student rights under federal special education laws and regulations, compliance issues, and complaint procedures; (2) complaint timelines and validation of the complaint; (3) the Early Assistance Program for quick resolution of problems; (4) investigation of complaints, including collection of information and review of information; (5) compliance determination, including issuance of findings and corrective actions; (7) complaint resolution; (8) corrective actions and technical assistance; and (9) enforcement by OIEP. A step-by-step summary of the complaint process under OIEP is provided that lists each procedure for lodging and resolving a complaint. Appendices include federal regulations under the Individuals with Disabilities Education Act for complaint investigation, a complaint investigation filing form, a sample letter of complaint acknowledgment, and a sample letter and notification that the written complaint does not meet legal requirements, components of a complaint investigation report, a sample complain investigation letter and school corrective action plan, and answers to frequently asked questions pertaining to complaints. (CR)

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ED 479 684

Procedures for the Investigation and Resolution of Special Education Complaints Under the Individuals with Disabilities Education Act (IDEA)

By
Bureau of Indian Affairs
Office of Indian Education Programs (OIEP)
Center for School Improvement

August 2002

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PROCEDURES FOR THE INVESTIGATION AND RESOLUTION OF SPECIAL EDUCATION COMPLAINTS

Under the Individuals with Disabilities Education Act (IDEA)

Bureau of Indian Affairs
Office of Indian Education Programs
Center for School Improvement

August 2002

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Center for School Improvement
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Bureau of Indian Affairs
Office of Indian Education Programs
(OIEP)
Center for School Improvement

Procedures for the Investigation and Resolution of Complaints Under the Individuals with Disabilities Education Act

August 2002

I. PURPOSE AND REQUIREMENTS

The Education Department General Administrative Regulations (EDGAR) require that the Bureau of Indian Affairs, Office of Indian Education Programs (OIEP) adopt and use procedures to investigate and resolve complaints (34 CFR 76.7700) alleging the BIA/OIEP, school, or participating public agency has violated a provision (statute or regulation) of Part B of the Individuals with Disabilities Education Act (IDEA) as amended in 1997 (20 U.S.C. 1401 et seq.) or the Education Department General Administrative Regulations (34 CFR Parts 74 and 76). The procedures set forth below are used by the OIEP to investigate and resolve any complaint by an individual or organization.

Complaints that a State (BIA/OIEP) or a school has failed to meet the requirements of §300.451-300.462 may also be filed by parents who have enrolled their children with disabilities in private schools. For purposes of these procedures, the term "public agency" shall include all public agencies responsible for providing children with disabilities a free appropriate public education (FAPE).

II. PUBLIC NOTIFICATION

The OIEP shall provide information to parents of children with disabilities, schools, and other interested individuals, including parent training and information centers, protection and advocacy agencies, private schools, and other appropriate entities regarding: (a) rights under Federal special education laws and regulations; (b) compliance issues; and (c) the OIEP's complaint investigation procedures. Schools operated by the Bureau of Indian Affairs provide to parents of children with disabilities a copy of their procedural safeguards, including the right to file a complaint with the Office of Indian Education Programs, Center for School Improvement.

III. COMPLAINT INFORMATION

A. Definition

"Complaint" includes the following components: (a) a signed written statement by an individual or organization that (b) alleges that the BIA/OIEP, school, or participating public agency has violated a requirement to Part B of the IDEA as amended by P.L. 105-117 (20 U.S.C. 1401 et seq.) and implementing regulations (34 CFR 300.660-300.662).

B. Timelines

1. The OIEP shall investigate and resolve any written complaint within **60 calendar days** from the date the complaint is received unless exceptional circumstances justify an extension for the time limit.

2. For the purposes of these procedures, the term "exceptional circumstances" means circumstances related to school closings. Timelines shall not be extended for refusal or failure by the school to cooperate with the complaint investigation. The amount of time to be granted for exceptional circumstances shall be determined on an individual case basis. The OIEP shall notify the complainant and school in writing of the time extension and the basis for the decision.

C. Receipt

Any individual or organization may file a written complaint. The OIEP will document receipt of all signed written complaints and verify whether the complaints meet the necessary requirements.

D. Validation of the Complaint

1. The OIEP shall determine whether the written statement is sufficient to constitute a complaint. A written statement shall be considered sufficient if it is signed by an individual or representative of an organization, alleges noncompliance with a Federal law or regulation cited under the definition of "complaint," and provides facts upon which the allegation is based.

2. The OIEP shall investigate an allegation that pertains to a violation that occurred not more than one year prior to the date of receipt unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date of receipt. Such decisions shall be determined on an individual case basis.

3. If the written statement is sufficient, the OIEP shall acknowledge receipt of the complaint and conduct a complaint investigation in accordance with established procedures.

4. If the written statement is not sufficient, the OIEP shall provide the complainant with written notification that the complaint is not sufficient to merit investigation. The written notice shall provide the reasons for the OIEP decision. The written notice may also refer the complainant to other agencies or offices for information, assistance, or services, if appropriate.

5. If a written complaint is received that is also the subject of a due process hearing, the OIEP shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. Any issue not subject to the hearing shall be resolved in accordance with complaint procedures.

6. If an allegation raised in a complaint has previously been decided in a due process hearing, the hearing decision is binding and the OIEP shall inform the complainant to that effect.

7. A complaint alleging an agency or school's failure to implement a due process hearing decision must be resolved by the OIEP.

IV. EARLY ASSISTANCE PROGRAM (EAP)

The Office of Indian Education Programs provides an ongoing and systematic informal dispute resolution process referred to as the "Early Assistance Program." (EAP).

A parent, guardian, adult student, school, or their representative may request early assistance in any issue related to a student's FAPE. The early assistance program does not require formal, written application, however; request for early assistance may be made in

writing to the Bureau of Indian Affairs, Office of Indian Education Programs, Center for School Improvement, 500 Gold Ave., S.W., Room 7202, P.O. Box 1088, Albuquerque, NM 87103-1088 (505) 248-7545.

The EAP focuses on the quick resolution of problems of mutual concern to all parties. The EAP draws on the traditional model of parents and schools working cooperatively to achieve their shared goal of meeting the educational needs of the student with disabilities. *The EAP is not intended to prevent the parent from filing a written complaint or due process hearing.*

This program is designed to provide information and technical assistance to parents, schools, and advocacy organizations in regard to the delivery of a FAPE for students with disabilities. Under the (Individuals with Disabilities Education Act), parents can file complaints if they feel a school is not following Part B regulations. The intent of the EAP is to intervene prior to or at the time of filing a complaint or due process hearing. The parents or guardians will allow 10 business days to contact both the school and guardian in an attempt to resolve the problem through the EAP. At this point, EAP will gather information pertinent to the situation from parents, schools, and others who are involved with the issue and attempt to resolve the problem. With permission from the parents, EAP may exceed 10 days.

The process is intended to resolve issues fairly and thereby prevent costly legal entanglements wherever possible. It provides the opportunity to discuss the issues at hand in a less formal manner. Both parents and schools can reach agreement without undermining the relationship necessary to ensure the smooth delivery of special education services to children and youth with disabilities. The utilization of a trained and impartial mediator might be a strategy to help resolve the differences.

V. INVESTIGATION OF COMPLAINT

The OIEP shall conduct a comprehensive investigation of the complaint through interviews and the collection and review of information.

A. Collection of Information

1. The OIEP shall notify the school in writing that a complaint has been filed, the name of the complainant, the allegation(s), and the facts upon which the allegation(s) is based.

2. The OIEP shall notify the complainant in writing of the allegations to be investigated and provide the complainant an opportunity to submit additional information, either orally or in writing, about the allegations(s) in the complaint.

3. OIEP will ask the complainant if they have been offered advice from the EAP or would like to consider mediation to resolve the problems. Both are voluntary.

4. A trained contract complaint investigator or mediator will be assigned to the case.

5. The OIEP shall request appropriate information from the school for the purpose of verifying the allegation(s).

6. The OIEP may use, as appropriate, any or all of the following procedures to investigate the complaint:
   a. Request copies of existing documents.
   b. Request answers to written questions.
   c. Conduct telephone or in-person interviews with school officials, employees, students, the complainant, or other relevant persons.
   d. Conduct on-site fact-finding.

B. Review of Information

The OIEP shall review all relevant information, interview parties, and, if necessary, visit the school to determine if the school has violated a federal special education law or regulation under Part B of IDEA.

VI. COMPLIANCE DETERMINATION

A. Issuance of Findings

The OIEP shall send a written decision to the school and the complainant that addresses each allegation in the complaint and includes findings of fact and conclusions and reasons for OIEP's final decision. The decision will state one of the following:

1. The OIEP has determined that the school appears to have met each of its responsibilities under federal law or regulation alleged to be unmet by the complainant and the reasons for the conclusions.

2. The OIEP has determined that the school has failed to meet one or more of its responsibilities under federal law or regulation alleged to be unmet by the complainant. The letter of finding shall also specify the OIEP's reason(s) for the final decision.

B. Corrective Actions

If it is determined that the school has failed to meet a responsibility required by federal law or regulations, the OIEP's letter of findings shall include the following:

1. The action(s) that must be undertaken by the school to correct each identified deficiency and the action(s) to remediate the denial of services, including, as appropriate, the awarding of monetary reimbursement.

2. Other corrective action(s) appropriate to the needs of the student.

3. The appropriate future provision of services for all students with disabilities who are subjects in the complaint.

VII. COMPLAINT RESOLUTION

The OIEP's letter of findings shall constitute the resolution of the complaint. In the event the school or the complainant disagrees with the findings, either party may request mediation or a due process hearing if the complaint issue(s) are regarding the identification, evaluation, FAPE, or placement of a child with a disability.

VIII. CORRECTIVE ACTIONS/TECHNICAL ASSISTANCE

A. When the OIEP issues to a school a letter of findings that identifies violations of federal law or regulation, the OIEP shall require the school to submit documentation verifying the implementation of corrective actions.

1. Documentation of corrective actions shall be due within **30 calendar days** following the issuance of the letter of findings unless otherwise specified.

Any violation of the provision of a FAPE for a child with a disability should be corrected as soon as possible.

2. Timelines for completing corrective actions will only be extended in circumstances related to approved solutions for building/renovating classrooms, physical relocation of classes, reassignment/reorganization of personnel, employment of additional personnel, illness of students or parents, parental request to reschedule meetings, or unforeseen circumstances (e.g., natural disasters). A request for an extension of the timelines must be made within **15 calendar days** of the issuance of the letter of findings.

3. The school may request technical assistance from the OIEP within **10 calendar days** from the issuance of a letter of findings. A request for technical assistance must be in writing and made at such a time as to not delay the resolution process.

Technical assistance may be provided by OIEP staff, or the OIEP may refer the school to other persons to obtain the requested technical assistance.

B. The OIEP shall require the school to complete corrective actions that will.

1. Eliminate each identified deficiency and, to the extent appropriate, any past effects of such deficiencies.

2. Prevent the recurrence of each identified deficiency.

3. Describe each action the school will take to correct identified deficiencies and achieve compliance.

4. Provide sufficient documentation to verify that each required action has been instituted and that the intended results have been achieved.

5. Identify the time frame for achieving full compliance, when appropriate.

C. Within **45 calendar days** from the issuance of the letter of findings, the OIEP shall review the school documentation of corrective actions.

1. If the documentation is acceptable, the OIEP shall provide the school written notice that the documentation is acceptable and the case is closed.

2. If the documentation indicates that implementation of corrective actions has begun and that portions have not been completed and/or an extension is requested, the OIEP shall provide the school written notice that shall approve appropriate actions, negotiate and approve request for extension, and/or disapprove inadequate actions.

   a. If this documentation is disapproved, the school must respond and complete actions as further required by the OIEP within **15 calendar days** from the written notice.

   b. The OEIP shall review the school's documentation of corrective actions and approve and close the case or disapprove and provide written notice to the school of enforcement sanctions as specified below.

IX. ENFORCEMENT

A. The OIEP shall recommend enforcement sanctions if:

1. At any time throughout the implementation of corrective actions, the school has failed to respond on or before the timelines specified.

2. At any time throughout the implementation of corrective actions, the school has failed to respond to the requirement ordered.

3. Corrective actions are not approved within **60 calendar days** from the issuance of the letter of findings.

4. At any time the school has failed to implement the corrective actions in accordance with the timelines specified in corrective action plans.

B. The OIEP shall provide written notice and reasons for enforcement sanctions to the Agency educational line officer, field education specialist, and school board as well as provide notice of the school's right to request a hearing. This constitutes giving reasonable notice and an opportunity for a hearing as required by 34 CFR 300.197. The OIEP shall also notify the school coordinator and educational line officer by telephone that enforcement sanctions have been recommended. If the school does not request a hearing within **10 days**, the OIEP shall implement enforcement sanctions as stated in the written notice.

C. If the OIEP reaches a final decision of noncompliance (i.e., the school continues to violate federal law and regulations), the OIEP may use any of the following sanctions alone or in combination as a means of enforcement:

1. Send a letter to the educational line officer and school board explaining violation of federal law.

2. Notify the parents of their right to proceed with a due process hearing.

3. Recommend the school for a 'focus' monitoring from OIEP.

4. Report the situation to the BIA special education advisory board.

5. Redirect funds (e.g., earmark fund for specific activities).

COMPLAINT PROCESS—STEP BY STEP SUMMARY

1. The complaint is received via the mail or fax. If received by mail, the complaint is stamped with the date received by OIEP/CSI. The 60 day timelines begins when the complaint is received by OIEP/CSI.
2. The complaint is given to the OIEP Education Specialist—Procedural Safeguards.
3. The complaint is logged into the complaint system, and a file is made.
4. The complaint coordinator makes contact with the complainant to verify the complaint issues.
5. The school and agency are contacted and alerted to the complaint by the complaint coordinator.
6. The complaint coordinator asks the school if early assistance or mediation has been offered.
7. The contract complaint investigator is identified by the complaint coordinator.
8. An appointment letter, signed by the Chief, Center for School Improvement, Office of Indian Education Programs, is mailed to the school and agency and c'd to the complainant by the complaint coordinator. This letter includes the issues identified in the letter of complaint.
9. The complaint investigator and complaint coordinator develop an investigation plan, including identifying needed documentation, and establishing an interview schedule.
10. The complaint investigator conducts fact-finding activities.
11. The complaint investigator develops conclusions based on the findings of fact.
12. The contract complaint investigator writes the complaint report and forwards the draft to the complaint coordinator.
13. The complaint coordinator reviews and proofs the draft report. The report is returned to the investigator for any needed changes.
14. The complaint investigator makes the requested changes, and the report is forwarded to the complaint coordinator for final review.
15. If the complaint coordinator provides additional changes, the complaint investigator will make changes and return the report for signature.
16. If no changes are requested by the complaint coordinator, the report is signed by the Chief of the OIEP/CSI special education director.
17. The complaint coordinator makes copies for the file and mails the report to the appropriate individuals, including the contract complaint investigator.
18. The complaint coordinator and contract complaint investigator assist the school in developing a corrective action plan.
19. The complaint coordinator is responsible for ensuring the completion of corrective activities in the report within identified timeframes.
20. Upon completion of school corrective action, the complaint coordinator will inform the OIEP director of special education and Chief, CSI.
21. The complaint coordinator generates a closure letter for signature by the Chief of the Office of Indian Education Programs—CSI.
22. The closure letter is mailed, a copy is placed in the complaint files and the documentation is filed in the school file or records management for a period of no less than three years.

APPENDIX A

Complaint Investigation

Individuals with Disabilities Education Act (IDEA)

Federal Regulations

Procedures for the Investigation and Resolution of Complaints

The following IDEA regulations relate to complaint investigations.

§300.660 Adoption of State complaint procedures.

(a) General. Each SEA shall adopt written procedures for—

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of §300.662 by—

(i) Providing for the filing of a complaint with the SEA; and

(ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State's procedures under §§300.660-300.662.

(b) Remedies for denial of appropriate services. In resolving a complaint in which it has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address:

(1) How to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child; and

(2) Appropriate future provision of services for all children with disabilities.

(Authority: 20 U.S.C. 1221e-3)

§300.661 Minimum State complaint procedures.

(a) Time limit, minimum procedures. Each SEA shall include in its complaint procedures a time limit of 60 days after a complaint is filed under §300.660(a) to—

(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and

(4) Issue a written decision to the complainant that addresses each allegation in the complaint and contains-

(i) Findings of fact and conclusions; and

(ii) The reasons for the SEA's final decision.

(b) Time extension; final decision; implementation. The SEA's procedures described in paragraph(a) of this section also must-

(1) Permit an extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint; and

(2) Include procedures for effective implementation of the SEA's final decision, if needed, including-

(i) Technical assistance activities;

(ii) Negotiations; and

(iii) Corrective actions to achieve compliance.

(c) Complaints filed under this section, and due process hearings under §§300.507 and 300.520-300.528.

(1) If a written complaint is received that is also the subject of a due process hearing under §300.507 or §§300.520-300.528, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.

(2) If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties-

APPENDIX B

- **Complaint Investigation Filing Form**
- **Letter of Complaint Acknowledgment**
  - **Parent Letter**
  - **School Letter**
- **Letter and Notification that the Written Complaint Does Not Meet Legal Requirements**

BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
SPECIAL EDUCATION

Complaint Investigation Filing Form

INFORMATION

Complainant_____ Date_____

Address_____ Phone_____

Relationship to Student(s)_____

Student(s)_____ Grade_____

Address_____ Phone_____

School_____ Agency_____

Date of Last IEP Meeting_____ Next Scheduled IEP_____

SUMMARY OF COMPLAINT

Is this concerning a past event? _____ Yes _____ No _____ Dates

Explain:_____

Date

Name, Position
Address
City, State, Zip

Dear Name:

Re:

On [date] the Office of Indian Education Programs, Center for School Improvement, received a formal complaint from the parents of a student in your school. As you are aware, we are required to investigate complaints made to the Office of Indian Education Programs that allege violations of the Individuals with Disabilities Education Act (IDEA). Enclosed is a copy of the letter sent by the parents to the OIEP. The 60 day period for investigation of this complaint will expire on [date].

[Name], special education contract complaint investigator, has been assigned to investigate this matter and will contact you regarding the issues raised by the complainant. If you have questions prior to that contact, please feel free to call me [phone number]. Please remember that no retaliation actions will be taken against the parent and/or student as a result of this complaint.

Sincerely,

Director of Special Education
Office of Indian Education Programs
Center for School Improvement

c: Agency Educational Line Officer
Agency Special Education Coordinator

Date

Name, Position
Address
City, State, Zip

Dear Name:

Re: Notification of Written Complaint not meeting legal requirements

The purpose of this letter is to notify you that your written complaint dated _____ did not contain the necessary requirements for the Office of Indian Education programs to move forward with an investigation. The following are reasons why the complaint cannot be processed:

_____

_____

_____

You can either re-submit your complaint with the necessary information or call the BIA complaint coordinator with additional clarification. The number is_____. We apologize for this inconvenience. Once a complaint has been approved for investigation the OIEP has no more than 60 days to issue findings and recommendations.

Sincerely,

Complaint Coordinator
Bureau of Indian Affairs
Office of Indian Education Programs

APPENDIX C

Complaint Investigation Report

THE COMPLAINT INVESTIGATION REPORT

Upon completion of interviews and review of pertinent documents, the contract complaint investigator will write the complaint investigation report (Appendix C). All interviews are identified in the report and all records reviewed are identified in the report. When writing about specific interviews or records in the report, the investigator should use these notations to reference the sources of certain statements or actions.

Each complaint investigation report should include references to the laws and regulations pertinent to the complaint. When considered helpful, an entire regulation may be included in the report.

It is necessary to include findings of facts in the report. Care must be taken to be certain that only facts for which there is sufficient evidence are included. Facts should be above dispute, something to which both sides in a complaint would agree.

The findings of facts are followed by conclusions. Each conclusion must indicate if there is a violation of IDEA Part B and the regulations and the basis for the conclusion. The conclusions should be written in a straightforward manner, reflecting an interpretation of the intent of the regulation. The conclusions must be supported by the facts of the case and IDEA regulations.

A complaint investigation report may or may not contain corrective actions depending on the outcome of the investigation. Corrective actions are the procedures necessary for effective implementation of the OIEP's final decision. They may include such activities as technical assistance involving OIEP, negotiations, in-service instruction for specific individuals or an entire school or special education unit, policy and procedure revision or development, or compensatory services. The corrective actions should be prescriptive for the specific violations determined in each complaint. The BIA contract complaint investigator and complaint coordinator can assist the school in developing a corrective action plan. It is important to include in each corrective action the timeline for completion of the corrective action and how completion will be verified and reported to OIEP.

The complaint investigation report will include a paragraph with a short summary of the complaint and the conclusions. The closing of the report will include a paragraph with a short summary of the complaint and the conclusions. The complaint investigation report will conclude with the investigator's signature, title, and the date of the reports. The complaint investigation report is to remain on file at the OIEP, Center for School Improvement.

The complaint investigation letter is not sent to the parties involved in the complaint. The report is kept on file at OIEP.

THE COMPLAINT INVESTIGATION LETTER

The complaint investigation letter is essentially a shortened version of the complaint investigation report (See Appendix D). This is the document that is sent to the parties involved in the complaint. It is addressed to the person(s) who wrote the initial letter of complaint to OIEP. The complaint investigation letter does not include a listing of the interviews, records reviewed, and the laws and regulations as are contained in the complaint investigation report. The BIA/OIEP director of special education signs the letter. Below the director of special education's signature is a full listing of those who are also to be mailed a copy of this letter. Copies should be sent to those parties relevant to the complaint (e.g., the special education coordinator, principal, etc.). A copy of the complaint investigation letter is to be kept on file with the complaint investigation report at the OIEP.

COMPONENTS OF A COMPLAINT INVESTIGATION REPORT

1. **COMPLAINANT**
   Name

   Address

   Relationship to Student

2. **STUDENT INITIALS**

3. **EDUCATION AGENCY**

4. **SCHOOL**

5. **STATEMENT OF ISSUES**
   (List) a.
   b.
   c.

6. **INTERVIEWS**
   (Name, relationship or position, e.g....)
   (I-A) Jane Doe, Complainant, Mother of Student
   (I-B) Jason Doe, Student
   (I-C) Karen Smith, Principal of Lincoln Elementary School

7. **RECORDS REVIEWED**
   (Examples)
   (R-A) Letter from Jane Doe, dated November 26, 2001
   (R-B) Current IEP, effective dates September 30, 2001 to September 30, 2002

8. **LAWS AND REGULATIONS VIOLATED**
   (Examples)
   Individuals with Disabilities Education (IDEA) Part B
   34 CFR 300.660, 300.661, 300.662 (State Complaint Procedures)
   34 CFR 300.346 (Content of Individualized Education Program)

9. FINDINGS OF FACT

(Examples)

1. Student's IEP does not include adaptations requiring modified assignments. (R-B)

2.

3.

10. CONCLUSIONS

(Examples)

1. With regard to issue one, *(cite issue one here)*, there is not a violation of Part B of IDEA and the regulations. *(Explain.)*

2. With regard to issue two, *(cite issue two here)*, there is a violation of Part B of IDEA and the regulations. *(Explain.)*

11. CORRECTIVE ACTIONS

(If appropriate, list corrective actions with timelines for completion, how they will be monitored and by whom.)

12. SUMMARY

13. SIGNATURE OF COMPLAINT INVESTIGATOR AND DATE OF REPORT

APPENDIX D

—Complaint Investigation Letter

—School Corrective Action Plan

COMPONENTS OF A COMPLAINT INVESTIGATION LETTER

1. **DATE**

2. **NAME AND ADDRESS OF COMPLAINANT(S)**

3. **OPENING**
   This letter is in response to your complaint against_____ with regard to_____. The following complaint issues(s) were presented for investigation.

4. **STATEMENT OF ISSUES**
   (List) *a.*
   b.
   c.

5. **FINDINGS OF FACT**
   (List) *a.*
   b.
   c.

6. **CONCLUSIONS**
   (List) *a.*
   b.
   c.

7. **CORRECTIVE ACTIONS**
   (If appropriate, list corrective actions with timelines for completion, how they will be monitored, and by whom.)

8. **SIGNATURE AND TITLE**

Copies are sent to parties relevant to the complaint (e.g., special education coordinator, principal, etc.) Note this in the letter to the complainant.

COMPLAINT INVESTIGATION
SCHOOL CORRECTIVE ACTION PLAN

School _____ Administrator _____

Complaint Findings/Conclusions _____

IDENTIFIED DEFICIENCY	CORRECTIVE ACTIONS	TIMELINES	VERIFICATION

APPENDIX E

Questions/Answers

Common Questions

1. **What is a complaint?**

   A complaint is a written signed statement by an individual or organization, including an individual or organization from another state, containing a statement that the state education agency or the local school has violated a requirement of federal or state statutes or regulations that apply to a program and a statement of the facts on which the complaint is based.

2. **Who can file a complaint?**

   Any individual or organization may file a complaint. Most of the complaints received in the state agency are typically from parents, but that is not always the case. A complaint could even be received from someone outside of the state, and the OIEP would have an obligation to investigate the complaint.

3. **What is the timeframe for investigation of complaints?**

   Complaints must be investigated and resolved within 60 days of receipt of the complaint letter. The 60 days includes the 10 days for the early assistance program. An extension to this timeline may be granted by the director of special education of the Office of Indian Education and ONLY in case of exceptional circumstances.

4. **What if a complaint is submitted which actually contains hearing type issues?**

   OIEP has a responsibility to investigate all complaints received. Certainly from time to time, a complaint will be received that has issues that may be addressed through the hearing process. At the time of receiving a complaint, the complaint coordinator will contact the complainant to verify the issues. In the course of verifying the issues, the complaint investigation process is explained. This explanation includes the information that the process addresses only procedural compliance. This explanation may help the complainant understand the abilities and limitations of the complaint process is an adequate route for whatever relief they are seeking.

5. **If a complainant wants to dismiss a complaint, what is the obligation of OIEP?**

   The request to dismiss the complaint does not automatically guarantee that OIEP will discontinue the investigation. OIEP is not obligated to automatically discontinue the investigation.

If the complaint will be dismissed at the request of the complainant, follow up with a letter stating that the OIEP understands the issue has been resolved and a complaint investigation is no longer needed. Also, indicate that the dismissal or withdrawal of the complaint does not affect any future rights of the parties.

6. Can a person or group file multiple complaints against the same school or on the same issues?

There is nothing in IDEA that limits or restricts the number of complaints that may be filed. OIEP has an obligation to respond in an objective, professional manner regardless of the nature or origin of the complaint.

The complaint investigator will not let repeated complaints affect their manner of investigation. Each investigation is conducted in the same manner as every other complaint that is received. The investigator should not "sympathize' with the school or agency, as this provides the impression that the investigator is biased and has made a determination of compliance without following the proper procedures.

The comments in IDEA 97 provide insight into handling the resolution of a repeated complaint:

> It is reasonable for a state to resolve a complaint on an issue that is the same as an issue on an earlier resolved complaint by reference to that earlier complaint resolution if it has first concluded, through review and evaluation, that the facts and circumstances pertinent to the complaints are unchanged. If a state were to refuse to accept a complaint because it appeared to be similar to an issue in an earlier-resolved complaint without reviewing whether the facts and circumstances pertinent to the complaints remain the same, the state could be ignoring potential violations of the Act. (P. 12647, Federal Register, Attachment 1, Analysis of comments and change)

7. What should an investigator do if they are threatened in the course of the investigation?

As a part of the investigative process, the investigator needs to be aware of the emotional aspect of the process. Families and professionals have a great deal at stake (their child, their job, their reputation) and they look to the investigator as someone who is very powerful.

The investigator needs to be professional at all times as they seek facts in the course of the investigation. Staff will maintain this level of professionalism for all aspects of the investigation, including when dealing with families and schools. It is fine to be empathetic, but not sympathetic. The investigator is unbiased and uninfluenced by the emotions that may be interjected into process.

8. Can the complainant add issues to the complaint?

If the addition of the issues comes early in the 60 days investigation timeframe, the team should add them to the original complaint. If the issues are brought up late in the 60 days, ask the complainant to submit a new complaint. The complexity of the additional issues may also be a factor in adding it to an existing complaint.

9. What should the investigative team do if they uncover more issues in the process of investigating a complaint?

The purpose of the investigation is to verify compliance. If compliance issues present themselves, they should be brought to the attention of the OIEP. If this is the case, the BIA monitoring system should be alerted to address the issues.

10. What can the complaint investigator team do if a decision comes down to one person's word against another and there is no documentation to support either side?

Complaint investigations are objective and based upon factual evidence. If a school has a duty, they must be able to demonstrate they have fulfilled that duty. An investigation can't "take their word for it." Documentation speaks for itself. If there is no documentation, it did not occur. The school has the responsibility to show they did what they said they would do when they accepted the federal funding.

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